

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 BENETH A. BROWNE
Deputy Attorney General
4 State Bar No. 202679
300 South Spring Street, Suite 1702
5 Los Angeles, California 90013
Telephone: (213) 897-7816
6 Facsimile: (213) 897-9395
Attorneys for Complainant
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MARCH 14 2011
BY: K. MONTALGANO ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation and Petition to
13 Revoke Probation Against,

Case No. D1-2000-107723

14 EDMUND CHEIN, M.D.
2825 Tahquitz Canyon Way, Bldg. A
15 Palm Springs, CA 92262

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

16 Physician's and Surgeon's Certificate
No. A 38678,

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Linda K. Whitney (Complainant) brings this Accusation and Petition to Revoke
21 Probation solely in her official capacity as the Executive Director of the Medical Board of
22 California, Department of Consumer Affairs.

23 2. On or about July 2, 1982, the Medical Board of California issued Physician's and
24 Surgeon's Certificate Number A 38678 to Edmund Chein, M.D. (Respondent). The Physician's
25 and Surgeon's Certificate was in effect at all times relevant to the charges brought herein and will
26 expire on October 31, 2011, unless renewed.

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1 **JURISDICTION**

2 3. In a disciplinary action entitled *In the Matter of Accusation Against Edmund Chein*,
3 Case No. 19-2000-107723, the Medical Board of California issued a decision effective March 16,
4 2006, in which Respondent’s Physician's and Surgeon's Certificate was revoked. However, the
5 revocation was stayed and Respondent’s Physician's and Surgeon's Certificate was placed on
6 probation for a period of five (5) years with certain terms and conditions. A copy of that decision
7 is attached as Exhibit A and is incorporated by reference.

8 4. This Accusation and Petition to Revoke Probation is brought before the Medical
9 Board of California (Board), Department of Consumer Affairs, under the authority of the
10 following laws. All section references are to the Business and Professions Code (Code) unless
11 otherwise indicated.

12 5. Section 2229 of the Code states, in subdivision (a):

13 “Protection of the public shall be the highest priority for the Division of Medical Quality¹,
14 the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality
15 Hearing Panel in exercising their disciplinary authority.”

16 6. Section 2227 of the Code provides that a licensee who is found guilty under the
17 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
18 one year, placed on probation and required to pay the costs of probation monitoring, or such other
19 action taken in relation to discipline as the Division deems proper.

20 7. Section 2234 of the Code states:

21 “The Division of Medical Quality shall take action against any licensee who is charged with
22 unprofessional conduct. In addition to other provisions of this article, unprofessional conduct
23 includes, but is not limited to, the following:

24 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
25 violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical
26 Practice Act].

27 ¹ Pursuant to Business and Professions Code section 2002, the “Division of Medical
28 Quality” or “Division” shall be deemed to refer to the Medical Board of California.

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“ . . .

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon."

8. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

“ . . . ”

9. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

“ . . .

"(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

1 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
2 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
3 shall be conclusive evidence of the fact that the conviction occurred.”

4 10. California Code of Regulations, title 16, section 1360, states:

5 “For the purposes of denial, suspension or revocation of a license, certificate or permit
6 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
7 considered to be substantially related to the qualifications, functions or duties of a person holding
8 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
9 evidences present or potential unfitness of a person holding a license, certificate or permit to
10 perform the functions authorized by the license, certificate or permit in a manner consistent with
11 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
12 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
13 violation of, or conspiring to violate any provision of the Medical Practice Act.”

14 11. Section 2261 of the Code states:

15 “Knowingly making or signing any certificate or other document directly or indirectly
16 related to the practice of medicine or podiatry which falsely represents the existence or
17 nonexistence of a state of facts, constitutes unprofessional conduct.”

18 12. Section 490 of the Code provides, in pertinent part, that a board may suspend or
19 revoke a license on the ground that the licensee has been convicted of a crime substantially
20 related to the qualifications, functions, or duties of the business or profession for which the
21 license was issued.

22 13. Section 493 of the Code states:

23 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
24 the department pursuant to law to deny an application for a license or to suspend or revoke a
25 license or otherwise take disciplinary action against a person who holds a license, upon the
26 ground that the applicant or the licensee has been convicted of a crime substantially related to the
27 qualifications, functions, and duties of the licensee in question, the record of conviction of the
28 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,

1 and the board may inquire into the circumstances surrounding the commission of the crime in
2 order to fix the degree of discipline or to determine if the conviction is substantially related to the
3 qualifications, functions, and duties of the licensee in question.

4 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
5 'registration.'"

6 14. Section 493 of the Penal Code states:

7 "(a) Every person who maliciously commits any of the following acts with respect to any
8 real or personal property not his or her own, in cases other than those specified by state law, is
9 guilty of vandalism:

10 "(1) Defaces with graffiti or other inscribed material.

11 "(2) Damages.

12 "(3) Destroys.

13 "Whenever a person violates this subdivision with respect to real property, vehicles, signs,
14 fixtures, furnishings, or property belonging to any public entity, as defined by Section 811.2 of
15 the Government Code, or the federal government, it shall be a permissive inference that the
16 person neither owned the property nor had the permission of the owner to deface, damage, or
17 destroy the property.

18 "(b)(1) If the amount of defacement, damage, or destruction is four hundred dollars (\$400)
19 or more, vandalism is punishable by imprisonment in the state prison or in a county jail not
20 exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or if the amount
21 of defacement, damage, or destruction is ten thousand dollars (\$10,000) or more, by a fine of not
22 more than fifty thousand dollars (\$50,000), or by both that fine and imprisonment.

23 "..."

24 15. Section 240 of the Penal Code states:

25 "Assault defined. An assault is an unlawful attempt, coupled with a present ability, to
26 commit a violent injury on the person of another."

27 16. Section 417(a)(2) of the Penal Code states:
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1 "Every person who, except in self-defense, in the presence of any other person, draws or
2 exhibits any firearm, whether loaded or unloaded, in a rude, angry, or threatening manner, or who
3 in any manner, unlawfully uses a firearm in any fight or quarrel is punishable as follows:

4 "(A) If the violation occurs in a public place and the firearm is a pistol, revolver, or other
5 firearm capable of being concealed upon the person, by imprisonment in a county jail for not less
6 than three months and not more than one year, by a fine not to exceed one thousand dollars
7 (\$1,000), or by both that fine and imprisonment.

8 "(B) In all cases other than that set forth in subparagraph (A), a misdemeanor, punishable
9 by imprisonment in a county jail for not less than three months."

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Conviction of Substantially Related Crime)

12 17. Respondent is subject to disciplinary action under sections 2227, 2234(a), 2236(a)
13 and 490 in that he committed unprofessional conduct when he was convicted of a crime,
14 vandalism, in violation of Penal Code Section 594(a), which is substantially related to the
15 qualifications, functions or duties of his profession. The circumstances are as follows:

16 18. A police report prepared by the San Gabriel Police Department narrates the
17 circumstances leading to the criminal prosecution against Respondent referred to in paragraphs 16
18 to 18, below:

19 A. According to the report, the police were summoned 1725 S. San Gabriel Boulevard,
20 San Gabriel, California, in reference to an individual brandishing a firearm. It was Monday, July
21 5, 2010. The initial officer on the scene in the rear parking lot of an apartment complex saw that
22 Respondent had a holstered handgun on his right hip. The officer detained Respondent at
23 gunpoint until additional units arrived at the scene.

24 B. According to the report, after sufficient units arrived to assist, a handgun and pocket
25 knife were secured from Respondent and Respondent was placed in handcuffs for others' safety
26 in case he had other weapons that were concealed. Shortly after that, the author of the police
27 report interviewed witnesses and Respondent and learned as follows:

28

1 C. RL and CL were sitting in their dad's car, eating cupcakes and drinking water while
2 waiting for their dad to return to the car to go to an afternoon barbeque. Their car was parked in
3 an apartment complex parking lot stall assigned to Respondent. Respondent's vehicle arrived and
4 parked directly behind them, blocking their car into his parking stall. Respondent then got out
5 from his vehicle, approached the driver's side of the car and tried to open the door by RL. She
6 yelled and saw Respondent kneel down and puncture both the rear and front tire with a black
7 knife. RL yelled at her sister to go get their dad. CL ran away to get their dad. RL saw a
8 woman, later identified as Respondent's wife, exit their vehicle and run away from the scene.
9 The girls' dad, DL, arrived and saw that not only did Respondent have a knife, he had a gun on
10 his person. DL called the police on his cell phone.

11 D. According to the police report, when asked why he slashed the tires, Respondent
12 stated to the author of the police report: "I did it because they always park in my parking spot
13 and they don't listen." The report states that when searching Respondent's vehicle, another
14 police officer also found a Taser weapon and pepper spray in Respondent's jacket. Respondent
15 was arrested and driven to jail for booking and processing.

16 19. Based on the incident, on or about August 31, 2010, a misdemeanor complaint was
17 filed in the Superior Court for the State of California for the County of Los Angeles, *The People*
18 *of the State of California v. Edmund YM Chein*, Case Number 0AH04080. It alleged that
19 Respondent committed four misdemeanor violations: exhibiting a firearm, in violation of Penal
20 Code Section 417(a)(2); vandalism, in violation of Penal Code Section 594(a); assault, in
21 violation of Penal Code Section 240; impersonating an Officer, in violation of Penal Code
22 538(d)(a)².

23 20. On or around November 17, 2010, Respondent was found guilty and convicted by a
24 jury of Count 2, vandalism³. The vandalism charge had alleged:

25

26 ² Count 4 charging impersonating an officer was dismissed in the interest by the judge in
27 the furtherance of justice pursuant to Penal Code section 1385. The statute cited for the crime in
the misdemeanor complaint, Penal Code section 538(d)(a), does not exist.

28 ³ Respondent was acquitted by the jury of Counts 1 and 3.

1 "On or about July 5, 2010, in the County of Los Angeles, the crime of VANDALISM
2 OVER \$400 DAMAGE-DAMAGE/DESTROY [sic], in violation of PENAL CODE SECTION
3 594(a), a Misdemeanor, was committed by EDMUND YM CHEIN, who did unlawfully and
4 maliciously damage and destroy real and personal property, to wit, vehicle tires not his/her own,
5 belonging to D.L., the amount of said damage being over \$400."

6 21. On or around December 16, 2010, Respondent was sentenced for the conviction.
7 Imposition of his sentence was suspended and Respondent was placed on summary probation for
8 a period of three (3) years under numerous terms and conditions as follows:

- 9 (a) serve thirty (30) days in Los Angeles County Jail;
- 10 (b) pay several fines and fees totaling \$180;
- 11 (c) perform ten (10) days of Cal Trans (community labor);
- 12 (d) not own, use or possess any dangerous or deadly weapons, including any firearms,
13 knives or other concealable weapons;
- 14 (e) the weapon involved in the case be confiscated and destroyed by the arresting agency;
- 15 (f) obey the protective order issued in the case or any other case;
- 16 (g) be served with a copy of the protective order in open court; and:
- 17 (h) enroll in and complete three (3) months of anger management;
- 18 (i) not threaten to use force or violence on any person;
- 19 (j) to not annoy, harass or molest any person or witness involved in the case, DL, CL and
20 RL;
- 21 (k) to stay away from the victims in the case.

22 **CAUSE TO REVOKE PROBATION**

23 (Obey all Laws)

24 22. At all times after the effective date of Respondent's probation, Condition 11 stated:

25 "Respondent shall obey all federal, state and local laws, all rules governing the practice of
26 medicine in California, and remain in full compliance with any court ordered criminal probation,
27 payments and other orders."

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1 23. Respondent's probation is subject to revocation because he failed to comply with
2 Probation Condition 11, referenced above. Specifically, he failed to obey state law and was
3 convicted of vandalism, in violation of Penal Code Section 594(a). The facts and circumstances
4 regarding this violation are as described in the first cause for discipline, incorporated herein.

5 **SECOND CAUSE FOR DISCIPLINE**

6 (Dishonest Act; False Statement)

7 24. Respondent is subject to disciplinary action under sections 2227, 2234(e), and 2261 in
8 that he committed unprofessional conduct by committing a dishonest act substantially related to
9 his duties as a physician and surgeon and he knowingly signed a document related to the practice
10 of medicine which falsely represented the existence or nonexistence of a state of facts. The
11 circumstances are as follows:

12 25. Paragraph seventeen regarding Respondent's conviction for vandalism on or around
13 November 17, 2010, is incorporated herein.

14 26. At all times after the effective date of Respondent's probation, Condition 12 stated:
15 "Respondent shall submit quarterly declarations under penalty of perjury on forms provided
16 by the Division, stating whether there has been compliance with all the conditions of probation.
17 Respondent shall submit quarterly declarations not later than 10 calendar days after the end of eth
18 preceding quarter."

19 27. Respondent completed and submitted his quarterly declaration for the fourth quarter
20 of 2010, covering October, November and December of 2010. Question number one asked:

21 "Have you . . . been arrested, charged, convicted of, pled nolo contendere in any state or
22 federal court or foreign country to any misdemeanor, felony or other offense? (If yes, specify
23 which one in your explanation. Exclude parking tickets.)" Respondent checked the box "No"
24 and submitted no explanation.

25 28. Respondent signed the declaration, indicating it was signed on January 6, 2011 in
26 Palm Springs. The language on the quarterly declaration form above his signature stated:

27 "I hereby submit this Quarterly Declaration as required by the Medical Board of California
28 and its Order of probation thereof and declare under penalty of perjury under the laws of the State

1 of California that I have read the foregoing declaration and any attachments in their entirety and
2 know their contents, and that all statements made are true in every respect and I understand and
3 acknowledge that any misstatements, misrepresentations, or omissions of material fact may be
4 cause for further disciplinary action.”

5 29. In signing his declaration, Respondent committed a dishonest act substantially related
6 to his duties as a physician and surgeon on probation. When he signed the declaration on January
7 6, 2011, Respondent knew that he had been convicted of vandalism in the State of California in
8 the period covered by the declaration. Respondent’s declaration, by denying his receipt of a
9 conviction in California, falsely represented the existence or nonexistence of a state of facts.

10 DISCIPLINE CONSIDERATIONS

11 30. To determine the degree of discipline, if any, to be imposed on Respondent,
12 Complainant alleges that Respondent has a lengthy history of disciplinary proceedings with the
13 Board, as follows:

14 A. Prior Discipline in 2002

15 On or about March 29, 2002, in prior disciplinary action entitled *In the Matter of the*
16 *Remand of the Amended Accusation and Petition to Revoke* before the Medical Board of
17 California, in Case Number D1-1991-8773, Respondent entered a stipulated settlement and
18 disciplinary order agreeing to discipline. Pursuant to the stipulated decision, Respondent’s
19 medical license was revoked but the revocation was stayed and Respondent was placed on
20 probation with ten and a half months of actual suspension, with ten and a half months already
21 served.⁴ Probation included successfully undergoing the Physician Assessment and Clinical
22 Education Program, “PACE,” including phase one, a two-day program and phase two, a one-
23 week (5 days/ 40 hours) program including clinical education and assessment as to Respondent’s
24 specialty and any further remediation required. Probation was completed May 13, 2002.

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26 ⁴ In a prior decision with the same case number entitled *In the Matter of the Accusation*
27 *and Petition to Revoke Probation Against Edmund Chein, M.D.*, Respondent’s license was
28 revoked effective February 18, 2000. On January 4, 2001, following a writ proceeding in
superior court, the revocation decision was vacated. It was followed by the above-referenced
stipulated decision.

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B. Prior Discipline in 1995

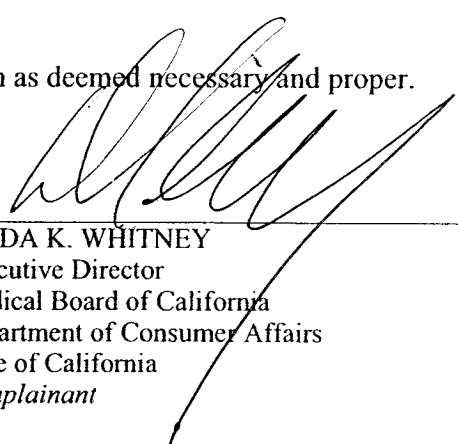
On or about June 30, 1995, in prior disciplinary action entitled *In the Matter of the Accusation Against Edmund Chein* before the Medical Board of California, in Case Number 18-91-8773, Respondent's medical license was revoked. The revocation was stayed and Respondent was placed on probation for three (3) years pursuant to a stipulated settlement and decision. In the stipulated settlement, Respondent admitted false advertising and his failure to obtain a fictitious name permit. Conditions of probation required Respondent: to periodically undergo a psychiatric evaluation and any psychotherapy or psychiatric treatment as required; to enroll in and successfully complete an Ethics course; and to have a practice monitor.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking the probation that was granted by the Medical Board of California in Case No. 19-2000-107723 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A 38678 issued to Edmund Chein, M.D.;
 2. Revoking, suspending, or placing on further probation Physician's and Surgeon's Certificate Number A 38678, issued to Edmund Chein, M.D.;
 3. Revoking, suspending or denying approval of his authority to supervise physician assistants, pursuant to section 3527 of the Code;
 4. Ordering him to pay the cost of probation monitoring if he is placed on probation;
- and;
5. Taking such other and further action as deemed necessary and proper.

DATED: March 14, 2011



LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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